

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 16-0913V

Filed: October 25, 2016

Unpublished

CHERYL STEPHENS,

Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

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Ruling on Entitlement; Concession;
Influenza ("Flu") Vaccine; Shoulder
Injury Related to Vaccine Administration
("SIRVA"); Special Processing Unit
("SPU")

*Amber D. Wilson, Maglio Christopher and Toale, PA, Washington, DC, for petitioner.
Lara A. Englund, U.S. Department of Justice, Washington, DC, for respondent.*

RULING ON ENTITLEMENT¹

Dorsey, Chief Special Master:

On August 1, 2016, Cheryl Stephens ("petitioner") filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² (the "Vaccine Act" or "Program"). Petitioner alleges that she suffered a shoulder injury as a result of an influenza ("flu") vaccination received on September 29, 2015. Pet. at 1. The case was assigned to the Special Processing Unit ("SPU") of the Office of Special Masters.

On October 24, 2016, respondent filed a Rule 4(c) Report in which she concedes that petitioner is entitled to compensation in this case. Rule 4(c) Rep. at 1. Specifically, respondent stated that the evidence establishes that petitioner's injury is consistent with a shoulder injury related to vaccine administration ("SIRVA"), and that the injury was caused-in-fact by her flu vaccination on September 29, 2015. *Id.* at 3. Additionally,

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012)(Federal Management and Promotion of Electronic Government Services). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all "§" references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

respondent stated that no other causes for petitioner's SIRVA were identified, and that all statutory and jurisdictional requirements have been met, including having suffered the condition for more than six months. *Id.* Thus, respondent concludes that entitlement to compensation is appropriate under the terms of the Vaccine Act. *Id.*

In view of respondent's concession and the evidence of record, the undersigned finds that petitioner is entitled to compensation.

IT IS SO ORDERED.

s/Nora Beth Dorsey

Nora Beth Dorsey
Chief Special Master